

PURPOSE

Michigan Department of Health and Human Services (MDHHS)
HIPAA Policies and Procedures Definition Glossary.

REVISION HISTORY

Issued: April 14, 2003.

Revised: September 16, 2013.

DEFINITION

Unless otherwise provided, the definitions set forth below apply to all of the privacy policies.

Alternate Communications

Confidential communications made to the individual at an alternate location or by an alternate means.

BI Query

System program used to extract data from the MDHHS's data warehouse.

Business Associate

A person or entity not employed by the MDHHS that provides certain functions, activities, or services for or on behalf of the MDHHS, which involves the use and/or disclosure of an individual's protected health information. A business associate also includes (1) any person who transmits protected health information to a covered entity and who requires routine access to such protected health information and (2) a person who offers a personal health record to one or more individuals on behalf of a covered entity. Such activities may include, but are not limited to, patient safety activities, billing, repricing, claims processing and administration, data analysis, legal, accounting, actuarial, consulting, utilization review, quality assurance, and similar services or functions. A business associate may be a covered entity. The definition of a business associate includes subcontractors that create, receive, maintain, or transmit protected health information on behalf of a business associate but excludes a person who is part of the covered entity's workforce. 45 C.F.R. § 160.103.

Client

A current or prior recipient of a MDHHS health program.

Compliance Date

The date by which a covered entity must comply with the Privacy Regulations, which is April 14, 2003, or the compliance deadline of any amendments to HIPAA or its regulations, as applicable.

Correctional Institution

Any penal or correctional facility, jail, reformatory, detention center, work farm, halfway house, or residential community program center operated by, or under contract to, the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, for the confinement or rehabilitation of persons charged with or convicted of a criminal offense or other persons held in lawful custody. Other persons held in lawful custody include juvenile offenders, adjudicated delinquent, aliens detained awaiting deportation, persons committed to mental institutions through the criminal justice system, witnesses, or others awaiting charges or trial. 45 C.F.R. § 164.501.

Covered Component(s)

A component or combination of components designated by the MDHHS, which is a hybrid entity. The covered components or covered care components of the MDHHS include the:

- Office of Services to the Aging.
- Bureau of Legislative and Policy Affairs.
- Medical Services Administration:
 - Bureau of Medicaid Policy and Health Systems Innovation.
 - Bureau of Medicaid Financial Management and Administrative Services.
 - Bureau of Medicaid Program Operations and Quality Assurance.
 - Office of Medicaid Health Information Technology.
 - Office of Medical Affairs and Pharmacy.
- Operations Administration.
 - Bureau of Budget and Purchasing.

- Office of Audit.
- Bureau of Finance.
- Public Health Administration.
 - Bureau of Family, Maternal and Child Health.
 - Division of Family and Community Health.
 - Children's Special Health Care Services Division.
 - Bureau of Laboratories.
- Behavioral Health and Developmental Disabilities Administration:
 - Bureau of Hospital and Behavioral Health Administrative Services.
 - Bureau of Community Based Services.
 - Children and Adults with Autism Spectrum Disorder.
- Office of Health Services Inspector General.
 - Medicaid Integrity Program.

Covered Entity

The entities to which the Privacy Regulations apply, which include: (a) a health plan; (b) a health care clearinghouse; and (c) a health care provider who transmits any health information in electronic form in connection with one of the following eleven (11) transactions: (i) health care claims or equivalent encounter information; (ii) health care payment and remittance advice; (iii) coordination of benefits; (iv) health care claims status; (v) enrollment and disenrollment in a health plan; (vi) eligibility for a health plan; (vii) health plan premium payments; (viii) referral certification and authorization; (ix) first report of injury; (x) health claims attachments; and (xi) other transactions that the Secretary of DHHS may prescribe by regulation. 45 C.F.R. § 160.103.

Covered Functions

Those functions of a covered entity the performance of which makes the entity a health plan, health care provider, or health care clearinghouse. 45 C.F.R. §164.103.

Data Warehouse

A collection of MDHHS data stored within an electronic warehouse database to be used and disclosed only under the conditions as described in these policies and procedures.

Designated Record Set

A group of records maintained by or for a MDHHS Component that includes the medical and billing records about individuals or that are used, in whole or in part, by the MDHHS to make decisions about individuals, regardless of who originally created the information. A designated record set does not include: (a) duplicate information maintained in other systems; (b) data collected and maintained for research; (c) data collected and maintained for peer review purposes; (d) psychotherapy notes; (g) information compiled in reasonable anticipation of litigation or administrative action; (h) employment records; (i) student records; and (j) source data interpreted or summarized in the individual's medical record (example: pathology slide and diagnostic films).

Direct Treatment Relationship

A treatment relationship between an individual and a health care provider that is not an indirect treatment relationship. 45 C.F.R. § 164.501.

Disclose or Disclosure

A treatment relationship between an individual and a health care provider that is not an indirect treatment relationship. 45 C.F.R. § 164.501.

ePHI

Acronym for Electronic Protected Health Information. Health related data pertaining to an individual who can be identified and is in electronic format.

Family Member

(1) A dependent of the individual; or (2) Any other person who is a first- degree, second-degree, third-degree, or fourth-degree relative of the individual or of a dependent of an individual. Relatives by affinity (such as by marriage or adoption) are treated the same as relatives by consanguinity (that is, relatives who share a common biological ancestor). In determining the degree of the relationship,

relatives by less than full consanguinity (such as half-siblings, who share only one parent) are treated the same as relatives by full consanguinity (such as siblings who share both parents). First degree relatives include parents, spouses, siblings, and children. Second degree relatives include grandparents, grandchildren, aunts, uncles, nephews, and nieces. Third degree relatives include great-grand parents, great- grandchildren, great aunts, great uncles, and first cousins. Fourth degree relatives include great-great grandparents, great-great grandchildren, and children of first cousins. 45 CFR § 160.103.

FOIA

Freedom of Information Act.

Health Benefit Plans

The health benefit plans or programs offered by the MDHHS for the benefit of its employees.

Health Care

Care, services, or supplies related to the health of an individual. Health care includes, but is not limited to, the following: (a) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status, of an individual or that affects the structure or function of the body; and (b) sale or dispensing of a drug, device equipment, or other item in accordance with a prescription. 45 C.F.R. § 160.103.

Health Care Operations

Health care operations means any of the following activities of the MDHHS to the extent that the activities are related to covered functions:

- (a) Conducting quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities (however, see definition of Research - use and disclosure possibly will require IRB review and approval); population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of MDHHS Personnel and individuals with information about treatment

alternatives; and related functions that do not include treatment.

- (b) Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, health plan performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as MDHHS Personnel, training of non- health care professionals, accreditation, certification, licensing, or credentialing activities.
- (c) Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs.
- (d) Business planning and development, such as conducting cost management and planning-related analyses related to managing and operating the MDHHS, including formulary development and administration, development or improvement of methods of payment or coverage policies.
- (e) Business management and general administrative activities of the MDHHS, including, but not limited to:
 - (1) Management activities relating to implementation of and compliance with the MDHHS's privacy policies.
 - (2) Resolution of internal grievances.
 - (3) Due diligence related to the sale, transfer, merger or consolidation of all or part of a covered entity with another covered entity.
 - (4) Creating de-identified health information or a limited data set, and fundraising.

45 C.F.R. § 164.501.

Health Care Provider

A provider of services (as defined in § 1861(u) of the Social Security Act, 42 U.S.C. § 1395x(u)), a provider of medical or health services (as defined in § 1861(s) of the Act, 42 U.S.C. § 1395x(s)), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business. 45 C.F.R. § 160.103.

Health Information

Any information, whether oral or recorded in any form or medium, that:

- (a) Is created or received by a health care provider, employer, school or MDHHS.
- (b) Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual. 45 C.F.R. § 160.103.

Health Oversight Agency

An agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant. 45 C.F.R. § 164.501.

HIPAA

The Health Insurance Portability and Accountability Act of 1996, as amended, and its implementing regulations, as amended.

Human Subject

Human subject is defined as "a living individual about whom an investigator conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information. (Also see definition of 'Research'.)

Hybrid Entity

A single legal entity: (1) that is a covered entity; (2) whose business activities include both covered and non-covered functions; and (3) that designates covered components. 45 C.F.R. § 164.103.

Indirect Treatment Relationship

A relationship between an individual and a health care provider in which: (a) the health care provider delivers health care to the

individual based on the orders of another health care provider; and (b) the health care provider typically provides services or products, or reports the diagnosis or results associated with the health care, directly to another health care provider, who provides the services or products or reports to the individual. 45 C.F.R. § 164.501.

Individually Identifiable Health Information

Information that is a subset of health information, including demographic information collected from an individual, and; (a) is created or received by a health care provider, health plan, employer, or health care clearinghouse; and (b) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (i) that identifies the individual; or (ii) with respect to which there is a reasonable basis to believe the information can be used to identify the individual. 45 C.F.R. § 160.503.

Inmate

A person incarcerated in or otherwise confined to a correctional institution. 45 C.F.R. § 164.501.

Institutional Review Board (IRB)

A multidisciplinary body, consisting of MDHHS employees, health care professionals and community representatives, charged with the responsibility for protecting human subjects in research through initial review and on-going oversight of the conduct of human subject research that is conducted or supported by MDHHS or otherwise subject to regulations that require MDHHS IRB review.

Law Enforcement Official

An officer or employee of any agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, who is empowered by law to: (i) investigate or conduct an official inquiry into a potential violation of law; or (ii) prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law. 45 C.F.R. § 164.501.

Legal Counsel

The MDHHS's Bureau of Legal Affairs and the Department of the Attorney General.

Marketing

To make a communication about a product or service that encourages recipients of the communication to purchase or use the product or service, unless the communication is made: (i) To provide refill reminders or otherwise communicate about a drug or biologic that is currently being prescribed for the individual, only if any financial remuneration received by the covered entity in exchange for making the communication is reasonably related to the covered entity's cost of making the communication; (ii) For the following treatment and health care operations purposes, except where the covered entity receives financial remuneration in exchange for making the communication: (A) For treatment of an individual by a health care provider, including case management or care coordination for the individual, or to direct or recommend alternative treatments, therapies, health care providers, or settings of care to the individual; (B) To describe a health-related product or service (or payment for such product or service) that is provided by, or included in a plan of benefits of, the covered entity making the communication, including communications about: the entities participating in a health care provider network or health plan network; replacement of, or enhancements to, a health plan; and health-related products or services available only to a health plan enrollee that add value to, but are not part of, a plan of benefits; or (C) For case management or care coordination, contacting of individuals with information about treatment alternatives, and related functions to the extent these activities do not fall within the definition of treatment.

For purposes of the definition of marketing, financial remuneration means direct or indirect payment from or on behalf of a third party whose product or service is being described. Direct or indirect payment does not include any payment for treatment of an individual.

MDHHS

Michigan Department of Health and Human Services.

MDHHS Personnel

Employees, staff, students and other trainees, volunteers, and other persons whose conduct, in the performance of work for the MDHHS, is under the direct control of the MDHHS, whether or not they are paid by the MDHHS. 45 C.F.R. § 160.103.

Payment

Any activities by the MDHHS, to make payment for health care, or collect payment from third parties for payment made in error. Such activities relate to the individual to whom health care is provided and included, but are not limited to: (a) billing, claims management, collection activities, and related health care data processing; and (b) disclosure to consumer reporting agencies of any of the following protected health information relating to collection of reimbursement: (i) name and address; (ii) date of birth; (iii) social security number; (iv) payment history; (v) account number; and (vi) name and address of the health care provider. 45 C.F.R. §164.501.

Personal Representative

Personal representative includes, but is not limited to, an executor, administrator, successor personal representative, and special personal representative, and any other person who performs substantially the same function under the law governing that person's status.

PHI

Acronym for Protected Health Information.

Privacy Official

The person designated by the MDHHS who is responsible for the development and implementation of the HIPAA policies and procedures of the MDHHS. 45 C.F.R. §164.530.

Privacy Policies or Procedures

This set of policies and procedures drafted and adopted by the MDHHS for the use of its covered components relating to the protection and confidentiality of protected health information.

Privacy Regulations

The regulations issued by the Department of Health and Human Services implementing the privacy requirements of the Health Insurance Portability Act of 1996, 42 CFR Parts 160 and 164, that are aimed at protecting an individual's right to privacy in matters involving his or her health care.

Protected Health Information or PHI

Individually identifiable health related information that is collected by a HIPAA covered entity or component and is transmitted by, or maintained in, electronic or any other form or medium.

Excludes individually identifiable health information in: (a) education records covered by the Family Educational Rights and Privacy Act (FERPA); and (b) employment records held by the MDHHS in its role as employer.

Psychotherapy Notes

Notes recorded (in any medium) by a health care provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session and that are separated from the rest of the individual's medical record.

Excludes medication prescription and monitoring, counseling sessions start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date. 45 C.F.R § 164.501.

Public Health Authority

An agency or authority of the United States, a State, the District of Columbia, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is responsible for public health matters as part of its official mandate. 45 C.F.R. § 164.501.

Recipient

A recipient of mental health services.

Recipient's Treatment Records

The treatment documentation maintained for each recipient during the course of his/her hospitalization, consisting of any and all written information obtained or generated by facility staff. Therapy notes can be maintained separate from the treatment record.

Required by Law

A mandate contained in law that compels an entity to make a use or disclosure of protected health information and that is enforceable in a court of law. Required by law includes, but is not limited to, court orders and court-ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to health care providers participating in the program; and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits. 45 C.F.R. § 164.501.

Research

A systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge. 45 C.F.R § 164.501, 45 C.F.R. 46.

Or, (the definition recommended by the National Bioethics Advisory Commission): "a systematic collection or analysis of data with the intent to generate new knowledge."

In the case of the data warehouse, IRB review applies to research that involves the use of the department's non-public information to identify or contact human research subjects or prospective subjects; see definition of Human Subject.

Sale of Protected Health Information

A disclosure of protected health information by a covered entity or business associate, if applicable, where the covered entity or business associate directly or indirectly receives remuneration from or on behalf of the recipient of the protected health information in exchange for the protected health information.

Sale of protected health information does not include a disclosure of protected health information: (i) For public health purposes; (ii) For research purposes, where the only remuneration received by the covered entity is a reasonable cost-based fee to cover the cost to prepare and transmit the protected health information for such purposes; (iii) For treatment and payment purposes; (iv) For the sale, transfer, merger, or consolidation of all or part of the covered entity and for related due diligence; (v) To or by a business

associate for activities that the business associate undertakes on behalf of a covered entity, or on behalf of a business associate in the case of a subcontractor and the only remuneration provided is by the covered entity to the business associate, or by the business associate to the subcontractor, if applicable, for the performance of such activities; (vi) To an individual;

(vii) Required by law; and (viii) For any other purpose permitted by the Privacy Regulation, where the only remuneration received by the covered entity or business associate is a reasonable, cost-based fee to cover the cost to prepare and transmit the protected health information for such purpose or a fee otherwise expressly permitted by other law. 45 CFR § 164.502.

For purposes of the definition of sale of protected health information, remuneration means direct or indirect payment, as well as in-kind and non-financial benefits, received by the covered entity or business associate, if applicable, from or on behalf of the recipient of the protected health information in exchange for the protected health information.

Sanction

An official course of action that is taken or imposed in response to a noted violation or instance of non-compliance with applicable regulations, policies and procedures.

Secretary

The secretary of the federal Department of Health and Human Services.

Security Officer

The person designated by the MDHHS to be responsible for the promulgation and implementation of the Security Regulations applicable to HIPAA.

Treatment

The provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to an individual; or the referral of an individual for health care from one health care provider to another. . 45 C.F.R. § 164.501.

Related Policies: Treatment includes: (a) the coordination or management of health care by a health care provider with a third party;

(b) consultation between health care providers relating to a individual; or (c) the referral of an individual for health care from one care provider to another. 45 C.F.R. § 164.501.

Use

With respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within the MDHHS by the covered components. 45 C.F.R. § 164.501.

Violation

Any action that is not in accordance with applicable regulations, policies and procedures.

REFERENCES

Health Insurance Portability and Accountability Act of 1996, as amended, and its implementing regulations, as amended.

CONTACT

For additional information concerning this policy, contact the MDHHS Bureau of Legal Affairs.